

HOUSE No. 1170

By Mr. Larkin of Pittsfield, petition of Peter J. Larkin and others
for legislation to further regulate special education. Education.

The Commonwealth of Massachusetts

PETITION OF:

Peter J. Larkin Karyn E. Polito
Patricia D. Jehlen

In the Year Two Thousand and Five.

AN ACT RELATIVE TO SPECIAL EDUCATION.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 28A of the General Laws is hereby
2 amended by inserting after section 4 the following new section:—
3 Section 4A. The secretary of the executive office of health and
4 human services shall convene interagency children's services
5 teams for determining which agency or agencies within the juris-
6 diction of said secretary shall provide or contract for appropriate
7 services to a child in cases when disputes rise among agencies
8 over the delivery of services to a child or when such services are
9 not being provided to a child. For purposes of this section,
10 "agency" shall mean any department, office, commission, board,
11 institution, or other agency of the commonwealth within the exec-
12 utive office of health and human services.
13 The secretary or his designee shall chair such local or regional
14 teams and preside over meetings. Such teams shall also include
15 the commissioner or chief executive officer, or his designee, of
16 the following agencies: the department of public health, the
17 department of social services, the department of education, the
18 department of transitional assistance, the department of mental
19 retardation, the department of mental health, the commission on
20 the deaf and hard of hearing, the Massachusetts rehabilitation

21 commission, the commission for the blind, or any other agency as
22 deemed necessary by the secretary to ensure delivery of appro-
23 priate and needed services to a child.

24 Such teams shall review such cases on a local or regional basis
25 and seek to identify the services necessary to resolve such cases;
26 designate the agency or agencies which shall provide or contract
27 for such services; direct such designated agency or agencies to
28 accept responsibility for such child and provide or contract for
29 such services; and provide opportunities to receive testimony and
30 evidence from such child, the family of such child, the representa-
31 tive of such child or such family, or the representative or other
32 employee of such agency.

33 If no decision is agreed upon by a majority of the team, the sec-
34 retary shall designate and require an agency to provide appro-
35 priate and needed services to such child. If a designated agency
36 fails to provide services to a child in a manner consistent with the
37 decision of the team, the secretary shall review the matter. If said
38 secretary finds that such decision of the team is reasonable and
39 within the jurisdiction of the designated agency, he shall direct
40 such agency to provide services in accordance with the decision of
41 the team and shall take any other action consistent with state law
42 to ensure that appropriate services are provided to such child.

43 The teams shall have full access to, and the agencies shall pro-
44 vide all information relevant to such cases, notwithstanding any
45 provisions of chapter sixty-six A, chapter one hundred and nine-
46 teen, chapter one hundred and twelve, or any other law to the con-
47 trary related to the confidentiality of personal data. However, all
48 confidential information shall be returned to its originating source
49 upon completion of this process and shall not be retained by the
50 team or any member thereof and no member of the team shall dis-
51 seminate any confidential information revealed during this
52 process.

53 For purposes of this section, “child” shall mean a person under
54 the age of eighteen, or under the age of twenty-two if such person
55 is disabled or has special needs.

56 The secretary shall issue an annual report summarizing the
57 activities of the teams during the preceding fiscal year.

1 SECTION 2. The state advisory commission for special educa-
2 tion is hereby authorized to investigate and study exit measure-
3 ments for students with disabilities, accommodations for students
4 with disabilities for the MCAS exam, so-called, and the alternate
5 assessment to MCAS for students with disabilities, Chapter 71B
6 private school tuition pricing, and the feasibility of training and
7 partnership grants for disseminating best practices, training staff
8 in use of assistive technology and collaboration on programs and
9 services in the delivery of special education services. For the pur-
10 poses of this section, the state advisory council shall consult with
11 the operational services division of administration and finance, the
12 department of education, school superintendents, school com-
13 mittee members, special education administrators, collaborative
14 directors, parents and consumers, and representatives of approved
15 private schools. The state advisory commission for special educa-
16 tion shall report to the board of education and to the general court
17 the result of its investigation and study and its recommendations
18 as well as any minority report, by filing the same with the clerk of
19 the house of representatives, and the clerk of the senate, on or
20 before May 1, 2006 but may issue interim reports from time to
21 time.

1 SECTION 3. The operational service division of administration
2 and finance and the department of education shall jointly study
3 issues related to cost increases for matters of health and safety, as
4 defined by state and federal regulations and as required by the
5 department of education where the department of education has
6 determined that certain cost increases must be implemented prior
7 to the effective date of the tuition increase resulting from program
8 reconstruction. In conducting their study, said agencies shall seek
9 input from the Massachusetts association of approved private
10 schools, the Massachusetts administrators for special education,
11 the Massachusetts association of school superintendents and
12 parent consumers. The operational service division of administra-
13 tion and finance and the department of education shall report to
14 the general court the result of their investigation and study and
15 their recommendations, if any, by filing the same with the clerk of
16 the house of representatives and the clerk of the senate on or
17 before January 31, 2007.